



# UNITED STATES PATENT AND TRADEMARK OFFICE

7

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/604,781

08/15/2003

Shyam K. Gupta

1780

34820

7590

09/27/2006

SHYAM K. GUPTA  
BIODERM RESEARCH  
5221 E. WINDROSE DRIVE  
SCOTTSDALE, AZ 85254

EXAMINER

DODSON, SHELLEY A

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/604,781	GUPTA, SHYAM K.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SHELLEY A. DODSON	1616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

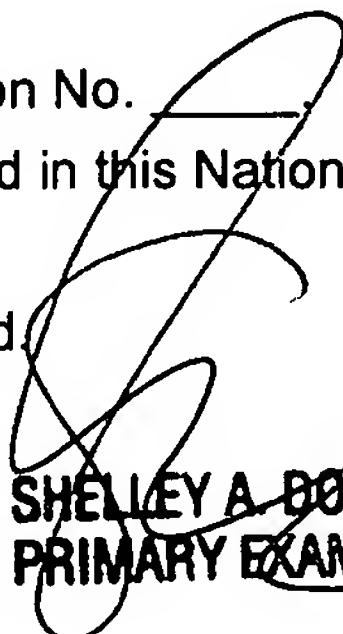
**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**SHELLEY A. DODSON**  
**PRIMARY EXAMINER**

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

Serial No. 10/606,781  
Art Unit 1616

-2-

#### DETAILED ACTION

1.

Claims 1-20 are pending in this application filed August 15, 2003.

Applicant's claims are directed toward a cosmetic dermabrasion treatment system.

#### Claim Rejections - 35 USC § 112

3.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The above stated claims are viewed as indefinite because of applicant's use of the phrase "suitable for". Applicant is advised

Serial No. 10/606,781  
Art Unit 1616

-3-

to avoid this rejection by removing the word "suitable" from the claim entirely. Clarification is necessary.

Claim Rejections - 35 USC § 103

4.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deckner et al USP NO. 5,824,666 in view of Nara et al. USP NO 4,536,405.

Deckner et al disclose skin care compositions which provide improved physical and chemical stability, while also providing good

skin deposition and good skin penetration. In column 1, Deckner further discloses that the compositions provide younger and healthier skin by resurfacing the skin by removal of the thin outer layers of the epidermis. In column 15, Deckner discloses the specific protective coatings employed by applicant, more specifically silicone oil or dimethicones. In columns 14 and 15, Deckner discloses propylene glycols or liquid binding agents. In column 6, Deckner further discloses that topical anesthetics and anti-inflammatory agents are also present. Column 15 discloses all other ingredients which may also be present which meet the limitation of claims 14 and 19. Deckner discloses each and every aspect of the invention as claimed by applicant in the instant case with the exception of the present of a skin-binding agent or an adhesive.

Nara et al disclose make-up cosmetic compositions having good adhesion. In Table 3 and column 9, Nara further discloses that rosinate and hydrocarbon resins are superior as skin adhesives.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the specific hydrocarbon resins of Nara into the skin resurfacing compositions of Deckner in view of the teaching of Nara that said hydrocarbon resins provide superior adhesive properties.

Serial No. 10/606,781  
Art Unit 1616

-5-

### Telephone Inquiries

6.

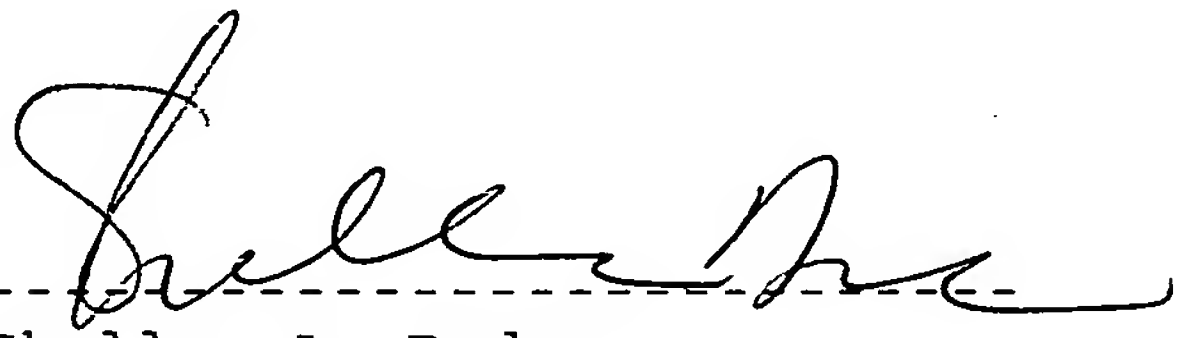
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley A. Dodson whose telephone number is (571) 272-0612 and fax number (571) 273-0612. The examiner can normally be reached on Monday-Thursday from 7:30 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached at (571) 272-0646.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. This new location should be used in all instances when faxing any correspondence numbers to Group 1600. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

Serial No. 10/606,781  
Art Unit 1616

-6-

applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact Electronic Business Center (EBC) at 866-217-9197 (toll-free).



-----  
Shelley A. Dodson  
Primary Examiner  
Art Unit 1616

September 21, 2006